

Notice of Allowability

Application No.

09/909,474

Examiner

Maryam Monshipouri

Applicant(s)

BOYLAN ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.
2. ☒ The allowed claim(s) is/are 1,4,5,8,10,53-55,62,68-73,75 and 76.
3. ☒ The drawings filed on 19 July 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>12/22/04</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Ms. Lynn L. Janulis, on 11/18/2004.

Examiner's Amendment to the Claims

In claims 62, line 3, "delete "an increased level" and substitute therefor --- a change in level ---.

In claim 62, line 4, delete " the nucleic acid molecule ", and substitute therefor --- said h2520-59 polynucleotide, utilizing polynucleotides of ---.

In claim 62, line 5, after "claim 1 in a ", insert --- biological tissue or cellular ---

In claim 62, line 6, after "expression in" delete " a biological ,", and substitute therefor --- said biological ---.

In claim 62, line 7, after "cellular sample" , insert --- with those "

In claim 62, line 8, "delete "an increased level" and substitute therefor --- a change in level ---.

Examiner's Amendments to the Specification

In page 13, line 14, "delete "Figure 1 depicts" and substitute therefor --- Figures 1(a)-1(b) depict ---.

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In page 13, line 16, "delete "Figure 2 presents" and substitute therefor --- Figures 2(a)-2(c) present ---.

The following is an **Examiner's Statement of Reasons for Allowance**:

Claims 1, 4-5, 8, 53-55, 62, 68-73 and 75-76 are directed to isolated polynucleotides encoding a human serine/threonine kinase (h2520-59 polypeptide) of specific amino acid sequence, vectors, compositions, arrays, diagnostic reagents and host cells comprising said products, methods of expressing said polynucleotides, methods of diagnosing a pathological condition caused by increased level of expression of said polynucleotides, methods of detecting said polynucleotides in biological samples, and methods of detecting change in expression of said polynucleotides all utilizing said polynucleotides.

Claimed polynucleotides are free of prior art. Further, the prior art does not teach or suggest preparing such specifically claimed products. Hence, claimed polynucleotides are also non-obvious.

Since claimed polynucleotides are both novel and non-obvious, vectors, compositions, arrays, diagnostic reagents and host cells comprising said products, methods of diagnosing a pathological condition caused by increased level of expression of said polynucleotides, methods of expressing said polynucleotides, methods of detecting said polynucleotides in biological samples, and methods of detecting change in expression of said polynucleotides all utilizing said polynucleotides, as claimed, are also novel and non-obvious.

Claims 1, 4-5, 8, 10, 53-55, 62, 68-76 are allowed.

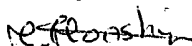
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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maryam Monshipouri whose telephone number is (571) 272-0932. The examiner can normally be reached on 7:00 a.m to 4:30 p.m. except for alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnanthapu Achutamurthy can be reached on (571) 272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Maryam Monshipouri Ph.D.

Primary Examiner